

By the Committee on Rules; and Senators Grall, Davis, Hooper, Pizzo, and Rodriguez

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1 A bill to be entitled
2 An act relating to traffic offenses; amending s.
3 316.305, F.S.; revising a short title; revising
4 legislative intent; defining terms; prohibiting a
5 person from operating a motor vehicle while using a
6 wireless communications device in a handheld manner;
7 providing an exception; requiring that sustained use
8 of a wireless communications device by a person
9 operating a motor vehicle be conducted through a
10 hands-free accessory until such use is terminated;
11 revising exceptions to the prohibition; deleting
12 obsolete provisions; providing penalties; amending s.
13 316.306, F.S.; revising penalty provisions relating to
14 the use of wireless communications devices in a
15 handheld manner in certain circumstances; conforming
16 provisions to changes made by the act; amending s.
17 318.14, F.S.; requiring the imposition of specified
18 civil penalties and periods of driver license
19 suspension, in addition to any other penalties, on a
20 person found at a mandatory hearing to have committed
21 certain traffic infractions that resulted in a crash
22 with another vehicle; amending s. 318.19, F.S.;
23 requiring persons cited for specified infractions that
24 result in a crash with another vehicle to appear at a
25 certain mandatory hearing; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 316.305, Florida Statutes, is amended to
31 read:

32 316.305 Wireless communications devices; use in a handheld
33 manner prohibited ~~prohibition~~.-

34 (1) This section may be cited as the "Florida Hands-Free
35 ~~Ban on Texting While~~ Driving Law."

36 (2) It is the intent of the Legislature to:

37 (a) Improve roadway safety for all vehicle operators,
38 vehicle passengers, bicyclists, pedestrians, and other road
39 users.

40 (b) Prevent crashes related to the use of a wireless
41 communications device in a handheld manner ~~act of text messaging~~
42 while driving a motor vehicle.

43 (c) Reduce injuries, deaths, property damage, health care
44 costs, health insurance rates, and automobile insurance rates
45 related to motor vehicle crashes.

46 (d) Authorize law enforcement officers to stop motor
47 vehicles and issue citations to persons who are using wireless
48 communications devices in a handheld manner ~~texting~~ while
49 driving.

50 (3) As used in this section, the term:

51 (a) "Handheld manner" means holding a wireless
52 communications device in one or both hands or physically
53 supporting the device with any other part of the body.

54 (b) "Hands-free accessory" means an attachment to or a
55 built-in feature of a wireless communications device which
56 allows the operator of a motor vehicle to engage in
57 interpersonal communication or otherwise use such device other
58 than in a handheld manner.

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59 (c) "Wireless communications device":

60 1. Means a handheld device used or capable of being used in
61 a handheld manner to:

62 a. Transmit or receive a voice message; initiate, receive,
63 or maintain a telephone call; or otherwise engage in
64 interpersonal voice communication;

65 b. Receive or transmit text-based or character-based
66 messages or otherwise engage in interpersonal nonvoice
67 communication;

68 c. Record or display videos or images;

69 d. Enter, access, or store data; or

70 e. Connect to the Internet or any communications service as
71 defined in s. 812.15(1).

72 2. Includes, but is not limited to, a cellular telephone, a
73 smartphone, a tablet computer, a laptop computer, a two-way
74 messaging device, an electronic gaming device, or a device
75 capable of displaying videos or images. The term does not
76 include a citizens band radio, a citizens band radio hybrid, a
77 commercial two-way radio communications device or its functional
78 equivalent, a subscription-based emergency communications
79 device, a prescribed medical device, an amateur or ham radio
80 device, or an in-vehicle security, navigation, communications,
81 or remote diagnostics system.

82 (4) (a)-(3)-(a) A person may not operate a motor vehicle while
83 using manually typing or entering multiple letters, numbers,
84 symbols, or other characters into a wireless communications
85 device in a handheld manner except to activate, deactivate,
86 initiate, or terminate a feature or function of the device,
87 including a hands-free accessory. Sustained use of a wireless

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88 communications device by a person operating a motor vehicle must
89 be conducted through a hands-free accessory until such use is
90 terminated. ~~or while sending or reading data on such a device~~
91 ~~for the purpose of nonvoice interpersonal communication,~~
92 ~~including, but not limited to, communication methods known as~~
93 ~~texting, e-mailing, and instant messaging. As used in this~~
94 ~~section, the term "wireless communications device" means any~~
95 ~~handheld device used or capable of being used in a handheld~~
96 ~~manner, that is designed or intended to receive or transmit text~~
97 ~~or character-based messages, access or store data, or connect to~~
98 ~~the Internet or any communications service as defined in s.~~
99 ~~812.15 and that allows text communications. For the purposes of~~
100 ~~this paragraph,~~ A motor vehicle that is stationary is not being
101 operated and is not subject to the prohibition in this
102 paragraph.

103 (b) Paragraph (a) does not apply to a motor vehicle
104 operator who is:

105 1. Performing official duties as an operator of an
106 authorized emergency vehicle as defined in s. 322.01, a law
107 enforcement or fire service professional, or an emergency
108 medical services professional.

109 2. Reporting an emergency or criminal or suspicious
110 activity to law enforcement authorities.

111 3. Receiving messages that are:

112 a. Related to the operation or navigation of the motor
113 vehicle;

114 b. Safety-related information, including emergency,
115 traffic, or weather alerts;

116 c. Data used primarily by the motor vehicle; or

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117 d. Radio broadcasts.

118 4. ~~Using a device or system for navigation purposes.~~

119 5. ~~Conducting wireless interpersonal communication that~~
120 ~~does not require manual entry of multiple letters, numbers, or~~
121 ~~symbols, except to activate, deactivate, or initiate a feature~~
122 ~~or function.~~

123 6. ~~Conducting wireless interpersonal communication that~~
124 ~~does not require reading text messages, except to activate,~~
125 ~~deactivate, or initiate a feature or function.~~

126 7. Operating an autonomous vehicle, as defined in s.
127 316.003(3), with the automated driving system engaged.

128 (c) A law enforcement officer who stops a motor vehicle for
129 a violation of paragraph (a) must inform the motor vehicle
130 operator of his or her right to decline a search of his or her
131 wireless communications device and may not:

132 1. Access the wireless communications device without a
133 warrant.

134 2. Confiscate the wireless communications device while
135 awaiting issuance of a warrant to access such device.

136 3. Obtain consent from the motor vehicle operator to search
137 his or her wireless communications device through coercion or
138 other improper method. Consent to search a motor vehicle
139 operator's wireless communications device must be voluntary and
140 unequivocal.

141 (d) Only in the event of a crash resulting in death or
142 personal injury, a user's billing records for a wireless
143 communications device or the testimony of or written statements
144 from appropriate authorities receiving such messages may be
145 admissible as evidence in any proceeding to determine whether a

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146 violation of paragraph (a) has been committed.

147 (5) (a) ~~(4) (a)~~ A ~~Any~~ person who violates paragraph (4) (a)
148 ~~(3) (a)~~ commits a noncriminal traffic infraction, punishable as a
149 nonmoving violation as provided in chapter 318.

150 (b) A ~~Any~~ person who commits a second or subsequent
151 violation of paragraph (4) (a) ~~(3) (a)~~ within 5 years after the
152 date of a prior conviction for a violation of paragraph (4) (a)
153 ~~(3) (a)~~ commits a noncriminal traffic infraction, punishable as a
154 moving violation as provided in chapter 318.

155 (6) ~~(5)~~ When a law enforcement officer issues a citation for
156 a violation of this section, the law enforcement officer must
157 record the race and ethnicity of the violator. All law
158 enforcement agencies must maintain such information and report
159 the information to the department by April 1 annually in a form
160 and manner determined by the department. Beginning July 1, 2023,
161 the department shall annually report the data collected under
162 this subsection to the Governor, the President of the Senate,
163 and the Speaker of the House of Representatives. The data
164 collected must be reported at least by statewide totals for
165 local law enforcement agencies, state law enforcement agencies,
166 and state university law enforcement agencies. The statewide
167 total for local law enforcement agencies shall combine the data
168 for the county sheriffs and the municipal law enforcement
169 agencies.

170 Section 2. Section 316.306, Florida Statutes, is amended to
171 read:

172 316.306 Penalties for School and work zones; prohibition on
173 ~~the~~ use of a wireless communications device in a handheld manner
174 on any roadway when construction personnel are present or

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175 operating equipment or in a school zone while flashing beacons
176 are activated.—

177 ~~(1) For purposes of this section, the term “wireless~~
178 ~~communications device” has the same meaning as provided in s.~~
179 ~~316.305(3)(a). The term includes, but is not limited to, a cell~~
180 ~~phone, a tablet, a laptop, a two-way messaging device, or an~~
181 ~~electronic game that is used or capable of being used in a~~
182 ~~handheld manner. The term does not include a safety, security,~~
183 ~~or convenience feature built into a motor vehicle which does not~~
184 ~~require the use of a handheld device.~~

185 ~~(2) It is the intent of the Legislature to:~~

186 ~~(a) Improve roadway safety in school and work zones for all~~
187 ~~vehicle operators, vehicle passengers, bicyclists, pedestrians,~~
188 ~~and other road users.~~

189 ~~(b) Prevent crashes related to the act of driving while~~
190 ~~using a wireless communications device in a handheld manner when~~
191 ~~operating a motor vehicle while the vehicle is in motion.~~

192 ~~(c) Reduce injuries, deaths, property damage, health care~~
193 ~~costs, health insurance rates, and automobile insurance rates~~
194 ~~related to motor vehicle crashes.~~

195 ~~(d) Authorize law enforcement officers to stop motor~~
196 ~~vehicles and issue citations to persons who are driving in~~
197 ~~school or work zones while using a wireless communications~~
198 ~~device in a handheld manner as provided in subsection (3).~~

199 ~~(3)(a)1. A person may not operate a motor vehicle while~~
200 ~~using a wireless communications device in a handheld manner in a~~
201 ~~designated school crossing, school zone, or work zone area as~~
202 ~~defined in s. 316.003(112). This subparagraph shall only be~~
203 ~~applicable to work zone areas if construction personnel are~~

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204 ~~present or are operating equipment on the road or immediately~~
205 ~~adjacent to the work zone area. For the purposes of this~~
206 ~~paragraph, a motor vehicle that is stationary is not being~~
207 ~~operated and is not subject to the prohibition in this~~
208 ~~paragraph.~~

209 ~~2. Effective January 1, 2020, a law enforcement officer may~~
210 ~~stop motor vehicles and issue citations to persons who are~~
211 ~~driving while using a wireless communications device in a~~
212 ~~handheld manner in violation of subparagraph 1.~~

213 ~~(b) Paragraph (a) does not apply to a motor vehicle~~
214 ~~operator who is:~~

215 ~~1. Performing official duties as an operator of an~~
216 ~~authorized emergency vehicle as defined in s. 322.01, a law~~
217 ~~enforcement or fire service professional, or an emergency~~
218 ~~medical services professional.~~

219 ~~2. Reporting an emergency or criminal or suspicious~~
220 ~~activity to law enforcement authorities.~~

221 ~~3. Receiving messages that are:~~

222 ~~a. Related to the operation or navigation of the motor~~
223 ~~vehicle;~~

224 ~~b. Safety-related information, including emergency,~~
225 ~~traffic, or weather alerts;~~

226 ~~e. Data used primarily by the motor vehicle; or~~

227 ~~d. Radio broadcasts.~~

228 ~~4. Using a device or system in a hands-free manner for~~
229 ~~navigation purposes.~~

230 ~~5. Using a wireless communications device hands-free or~~
231 ~~hands-free in voice-operated mode, including, but not limited~~
232 ~~to, a factory-installed or after-market Bluetooth device.~~

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233 ~~6. Operating an autonomous vehicle, as defined in s.~~
234 ~~316.003, in autonomous mode.~~

235 ~~(c) A law enforcement officer who stops a motor vehicle for~~
236 ~~a violation of paragraph (a) must inform the motor vehicle~~
237 ~~operator of his or her right to decline a search of his or her~~
238 ~~wireless communications device and may not:~~

239 ~~1. Access the wireless communications device without a~~
240 ~~warrant.~~

241 ~~2. Confiscate the wireless communications device while~~
242 ~~awaiting issuance of a warrant to access such device.~~

243 ~~3. Obtain consent from the motor vehicle operator to search~~
244 ~~his or her wireless communications device through coercion or~~
245 ~~other improper method. Consent to search a motor vehicle~~
246 ~~operator's wireless communications device must be voluntary and~~
247 ~~unequivocal.~~

248 ~~(d) Only in the event of a crash resulting in death or~~
249 ~~serious bodily injury, as defined in s. 316.027, may a user's~~
250 ~~billing records for a wireless communications device, or the~~
251 ~~testimony of or written statements from appropriate authorities~~
252 ~~receiving such messages, be admissible as evidence in any~~
253 ~~proceeding to determine whether a violation of subparagraph~~
254 ~~(a)1. has been committed.~~

255 ~~(e) Law enforcement officers must indicate the type of~~
256 ~~wireless communications device in the comment section of the~~
257 ~~uniform traffic citation.~~

258 ~~(4)(a) A Any person who violates s. 316.305(4)(a) on any~~
259 ~~roadway when construction personnel are present or are operating~~
260 ~~equipment on the road or immediately adjacent to the work zone~~
261 ~~area, or in a school zone during periods in which the~~

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262 restrictive speed limit is enforced and flashing beacons are
263 activated, this section commits a noncriminal traffic
264 infraction, punishable as a moving violation, as provided in
265 chapter 318, and shall pay a fine of \$150 and have 3 points
266 assessed against his or her driver license. A person who commits
267 a second violation shall pay a fine of \$250 and have 3 points
268 assessed against his or her driver license. A person who commits
269 a third violation shall pay a fine of \$500, have 4 points
270 assessed against his or her driver license, and have his or her
271 driver license suspended for 90 days, and shall have 3 points
272 assessed against his or her driver license as set forth in s.
273 322.27(3)(d)8.

274 (a) For a first violation ~~offense under this section~~, in
275 lieu of the penalty ~~specified in s. 318.18~~ and the assessment of
276 points, a person ~~who violates this section~~ may elect to
277 participate in a wireless communications device driving safety
278 program approved by the Department of Highway Safety and Motor
279 Vehicles. Upon completion of such program, the penalties ~~penalty~~
280 specified in this section and s. 318.18 and associated costs may
281 be waived by the clerk of the court and the assessment of points
282 must be waived.

283 (b) The clerk of the court may dismiss a case and assess
284 court costs in accordance with s. 318.18(12)(a) for a nonmoving
285 traffic infraction for a person who is cited for a first ~~time~~
286 ~~violation of this section~~ if the person shows the clerk proof of
287 purchase of equipment that enables his or her personal wireless
288 communications device to be used in a hands-free manner.

289 (2)(5) Notwithstanding s. 318.21, all proceeds collected
290 pursuant to s. 318.18 for violations under ~~of~~ this section must

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291 be remitted to the Department of Revenue for deposit into the
 292 Emergency Medical Services Trust Fund of the Department of
 293 Health.

294 ~~(3)(6)~~ When a law enforcement officer issues a citation for
 295 a violation under ~~of~~ this section, the law enforcement officer
 296 must:

297 (a) Indicate in the comment section of the uniform traffic
 298 citation the type of wireless communications device that was
 299 used to commit the violation.

300 (b) Record the race and ethnicity of the violator. All law
 301 enforcement agencies must maintain such information and must
 302 report such information to the department in a form and manner
 303 determined by the department. Beginning February 1, 2020, the
 304 department shall annually report the data collected under this
 305 paragraph subsection to the Governor, the President of the
 306 Senate, and the Speaker of the House of Representatives. The
 307 data collected must be reported at least by statewide totals for
 308 local law enforcement agencies, state law enforcement agencies,
 309 and state university law enforcement agencies. The statewide
 310 total for local law enforcement agencies is a combination of
 311 ~~must combine~~ the data for the county sheriffs and the municipal
 312 law enforcement agencies.

313 Section 3. Subsection (5) of section 318.14, Florida
 314 Statutes, is amended to read:

315 318.14 Noncriminal traffic infractions; exception;
 316 procedures.—

317 (5)(a) Any person electing to appear before the designated
 318 official or who is required to appear is ~~shall be~~ deemed to have
 319 waived his or her right to the civil penalty provisions of s.

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320 318.18. The official, after a hearing, shall make a
321 determination as to whether an infraction has been committed. If
322 the commission of an infraction has been proven, the official
323 may impose a civil penalty not to exceed \$500, except that in
324 cases involving unlawful speed in a school zone or involving
325 unlawful speed in a construction zone, the civil penalty may not
326 exceed \$1,000; or require attendance at a driver improvement
327 school, or both.

328 (b)1. If the person is required to appear before the
329 designated official pursuant to s. 318.19(1) and is found to
330 have committed the infraction, the designated official must
331 ~~shall~~ impose a civil penalty of \$1,000 in addition to any other
332 penalties and the person's driver license shall be suspended for
333 6 months.

334 2. If the person is required to appear before the
335 designated official pursuant to s. 318.19(1) and is found to
336 have committed the infraction against a vulnerable road user as
337 defined in s. 316.027(1), the designated official must ~~shall~~
338 impose a civil penalty of not less than \$5,000 in addition to
339 any other penalties, the person's driver license must ~~shall~~ be
340 suspended for 1 year, and the person must ~~shall~~ be required to
341 attend a department-approved driver improvement course relating
342 to the rights of vulnerable road users relative to vehicles on
343 the roadway as provided in s. 322.0261(2).

344 (c)1. If the person is required to appear before the
345 designated official pursuant to s. 318.19(2) and is found to
346 have committed the infraction, the designated official must
347 ~~shall~~ impose a civil penalty of \$500 in addition to any other
348 penalties and the person's driver license must ~~shall~~ be

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349 suspended for 3 months.

350 2. If the person is required to appear before the
351 designated official pursuant to s. 318.19(2) and is found to
352 have committed the infraction against a vulnerable road user as
353 defined in s. 316.027(1), the designated official must ~~shall~~
354 impose a civil penalty of not less than \$1,500 in addition to
355 any other penalties, the person's driver license must ~~shall~~ be
356 suspended for 3 months, and the person must ~~shall~~ be required to
357 attend a department-approved driver improvement course relating
358 to the rights of vulnerable road users relative to vehicles on
359 the roadway as provided in s. 322.0261(2).

360 (d) If the person is required to appear before the
361 designated official pursuant to s. 318.19(6) and is found to
362 have committed an infraction of s. 316.075(1)(c) or s.
363 316.123(2):

364 1. Except as provided in subparagraphs 2. and 3., the
365 designated official must impose a civil penalty of \$500 in
366 addition to any other penalties.

367 2. A second time, the designated official must impose a
368 civil penalty of \$1,000 in addition to any other penalties and
369 the person's driver license must be suspended for 6 months.

370 3. A third or subsequent time, the designated official must
371 impose a civil penalty of \$1,000 in addition to any other
372 penalties and the person's driver license must be suspended for
373 1 year.

374 (e) If the official determines that no infraction has been
375 committed, no costs or penalties may ~~shall~~ be imposed and any
376 costs or penalties that have been paid ~~must~~ ~~shall~~ be returned.

377 (f) Moneys received from the mandatory civil penalties

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378 imposed pursuant to this subsection upon persons required to
 379 appear before a designated official pursuant to s. 318.19(1),
 380 (2), or (6) ~~s. 318.19(1) or (2)~~ shall be remitted to the
 381 Department of Revenue and deposited into the Department of
 382 Health Emergency Medical Services Trust Fund to provide
 383 financial support to certified trauma centers to assure the
 384 availability and accessibility of trauma services throughout the
 385 state. Funds deposited into the Emergency Medical Services Trust
 386 Fund under this section shall be allocated as follows:

387 1.(a) Fifty percent shall be allocated equally among all
 388 Level I, Level II, and pediatric trauma centers in recognition
 389 of readiness costs for maintaining trauma services.

390 2.(b) Fifty percent shall be allocated among Level I, Level
 391 II, and pediatric trauma centers based on each center's relative
 392 volume of trauma cases as calculated using the hospital
 393 discharge data collected pursuant to s. 408.061.

394 Section 4. Section 318.19, Florida Statutes, is amended to
 395 read:

396 318.19 Infractions requiring a mandatory hearing.—Any
 397 person cited for the infractions listed in this section does
 398 ~~shall~~ not have the provisions of s. 318.14(2), (4), and (9)
 399 available to him or her but must appear before the designated
 400 official at the time and location of the scheduled hearing:

401 (1) Any infraction which results in a crash that causes the
 402 death of another;

403 (2) Any infraction which results in a crash that causes
 404 "serious bodily injury" of another as defined in s. 316.1933(1);

405 (3) Any infraction of s. 316.172(1)(b);

406 (4) Any infraction of s. 316.520(1) or (2); ~~or~~

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407 (5) Any infraction of s. 316.183(2), s. 316.187, or s.
408 316.189 of exceeding the speed limit by 30 mph or more; or
409 (6) Any infraction of s. 316.075(1)(c) or s. 316.123(2)
410 which results in a crash with another vehicle as defined in s.
411 316.003.

412 Section 5. This act shall take effect October 1, 2025.